

Appl. No. : 10/657,022
Filed : September 5, 2003

REMARKS

Claims 1-40 are pending in the application. Claims 1-16 have been canceled without prejudice or disclaimer. Claims 18, 33 and 40 have been amended. Support for the amendments to the claims is found throughout the specification as originally filed. More particularly, support for the amendment to Claims 18, 33 and 44 is found, *inter alia*, in Table 1B and original claim 1 of the specification. Claims 17, 27, 30-32, 34-39 have been withdrawn pursuant to the Restriction Requirement.

Applicants submit that no new matter has been added with the foregoing amendment and newly added claims. Reconsideration is respectfully requested.

Rejection under 35 U.S.C. § 112, first paragraph

Claims 1-16, 18-26, 28, 29, 33 and 40 have been rejected under 35 U.S.C. § 112, first paragraph, for allegedly lacking written description. According to the Office Action, the phrases “substantial similarity” and “functional similarity” render the scope of the claims as encompassing subject matter not sufficiently described in the specification. To the extent the rejection is applicable to the amended set of claims, Applicants respectfully traverse the rejection.

The Office Action alleges that because of the terms “substantial similarity” and “functional similarity,” the claims encompass a vast array of mutant peptides that are not disclosed in the specification, and it is “unpredictable as to what amino acid residues not involved in MHC binding of a peptide can be changed wherein the peptides remain immunogenic.” *See*, Office Action at page 3.

In the interest of advancing prosecution, Applicants have amended the claims to specify embodiments of “functional similarity.” Applicants have also amended the claims to delete the recitation of “substantial similarity.” For purposes of the present claims, functional similarity involves cross-reactivity between a CTL response to the reference peptide sequence and the CTL response to the functionally similar peptide sequence; functional similarity for nucleic acid sequences involves hybridization cross-reactivity of the reference nucleic acid sequence and the functionally similar nucleic acid sequence or can involve encoding by the functionally similar nucleic acid of epitopes that are functionally similar to epitopes encoded by the reference nucleic

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acid. Applicants note that functional similarity would be recognized by a person of ordinary skill in the art as a specific CTL response to a given sequence that is cross-reactive with a reference sequence, wherein the cross-reactivity is sufficiently above baseline to be clinically useful. *See*, Specification at Paragraphs 0020, 0126, and 0150.

Applicants have canceled Claims 1-16 without prejudice, thereby obviating the rejection of Claims 1-16. In view of the above, this rejection has been overcome, and Applicants request withdrawal of the rejection.

Rejections under 35 U.S.C. § 102:

Claims 1-16, 18-26, 28, 29, 33 and 40 were rejected under 35 U.S.C. § 102(b) as allegedly anticipated by PCT Publication No. WO 01/45728 (“Fikes *et al.*”). According to the Office Action, Fikes *et al.* teach the peptide of SEQ ID. NO: 67. To the extent the rejection is applicable to the amended set of claims, Applicants traverse the rejection.

Applicants respectfully disagree with this rejection. Nevertheless, without acquiescing in the rejection, and solely in the interest of advancing the application to allowance, Applicants have amended Claims 18, 33 and 40. As amended, the claims are directed towards a combination composition comprising an isolated epitope having the sequence selected from the group consisting of SEQ ID NO: 108, SEQ ID NO: 312, SEQ ID NO: 354, SEQ ID NO: 364, SEQ ID NO: 430 and SEQ ID NO: 572. Fikes *et al.* do **not** teach or suggest a combination as recited in the amended claims. In addition, Applicants have canceled Claims 1-16 without prejudice. As such, the rejection is obviated, and withdrawal of the rejection is respectfully requested.

CONCLUSION

The undersigned has made a good faith effort to respond to Restriction Requirement and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain, or if any issues require clarification, the Examiner is respectfully requested to call the undersigned to discuss such issues.

Appl. No. : 10/657,022
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Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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